



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1084]

Certain Insulated Beverage Containers, Components, Labels, and Packaging Material

Thereof; Notice of Issuance of a Limited Exclusion Order against Two Respondents Found

in Default; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order (“LEO”) against certain insulated beverage containers, components thereof, labels, and packaging material thereof, that are manufactured or imported by defaulted respondents. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, DC 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 24, 2017, based on a complaint and supplement, filed on behalf of Yeti Coolers, LLC of Austin, Texas (“Yeti”). 82 FR 55860-61 (Nov. 24, 2017). The amended complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain insulated beverage containers, components, labels, and packaging materials thereof by reason of infringement of U.S. Trademark Registration Nos. 5,233,441 and 4,883,074; U.S. Copyright Registration Nos. VA 1-974-722, VA 1-974-732, VA 1-974-735; and U.S. Design Patent Nos. D752,397, D780,533, D781,146, and D784,775. The complaint further alleges that an industry in the United States exists as required by section 337. The notice of investigation named thirteen respondents, including Huizhou Dashu Trading Co., Ltd. of Huizhou City, China (“Huizhou Dashu”) and Huagong Trading Co., Ltd. of Wangshizhuang, China (“Huagong”). The Office of Unfair Import Investigations (“OUII”) was also named as a party.

The Commission terminated eleven of those respondents based on settlement agreements and partial withdrawals of the complaint. *See* Order No. 11 (Mar. 8, 2018), *not reviewed* Notice (Mar. 26, 2018); Order Nos. 19, 20, and 21 (Apr. 17, 2018), *not reviewed* Notice (May 11, 2018); Order No. 27 (Jun. 8, 2018), *not reviewed* Notice (Jun. 29, 2018); Order No. 29 (Sept. 27, 2018), *not reviewed* Notice (Oct. 22, 2018).

The Commission found the remaining two respondents, Huizhou Dashu and Huagong, in default for failing to respond to the complaint and notice of investigation. Order No. 29 (Sept. 27, 2018), *not reviewed* Notice (Oct. 22, 2018). The Commission also sought briefing on remedy, the public interest, and bonding, and received main and reply submissions from Yeti and OUII. In

response, both Yeti and OUII requested that the Commission issue an LEO against Huizhou Dashu and Huagong. The Commission received no responses from the public.

The Commission has determined that the appropriate form of relief in this investigation is an LEO prohibiting the unlicensed entry of insulated beverage containers, components thereof, labels, and packaging material thereof that infringe one or more of U.S. Trademark Registration Nos. 5,233,441 and 4,883,074; U.S. Copyright Registration Nos. VA 1-974-722, VA 1-974-732, VA 1-974-735; and U.S. Design Patent Nos. D752,397 and D780,533, and that are manufactured abroad by or on behalf of, or imported by or on behalf of, Huizhou Dashu and Huagong. The Commission has further determined that the LEO should also prohibit the unlicensed entry of insulated beverage containers, components thereof, labels, and packaging material thereof that infringe one or more of U.S. Design Patent Nos. D781,146 and D784,775, and that are manufactured abroad by or on behalf of, or imported by or on behalf of, Huagong. The Commission has additionally determined that the public interest factors enumerated in Section 337(g)(1) (19 U.S.C. 1337(g)(1)) do not preclude issuance of the LEO. The Commission has determined that the bond for importation during the period of Presidential review shall be in the amount of one hundred (100) percent of the entered value of the imported subject articles of Respondent. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: December 13, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018-27413 Filed: 12/18/2018 8:45 am; Publication Date: 12/19/2018]